

Appl. No. 10/629,056
Response dated: May 22, 2006
Reply to Office action of March 21, 2006

REMARKS

In response to the Final Office action dated March 21, 2006, Applicants respectfully request reconsideration based on the following remarks. Applicants respectfully submit that the claims as presented are in condition for allowance.

Applicants' attorney also cordially thanks the Examiner for the consideration given during a telephone conference on May 15, 2006 to discuss the provisions of MPEP §804 to allow an earlier filed application when the "provisional" double patenting rejection is the only rejection remaining in at least one of the applications.

Claims 1-22 are pending in the present Application. Claims 1-22 have been provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-22 of copending Application No. 10/631,335. Claims 1-22 remain pending for consideration upon entry of the following remarks. No new matter has been added.

Double Patenting

The Examiner alleges that although the conflicting claims are not identical, they are not patentably distinct from each other because claim 14 of the instant application and claims 1, 3 of copending Application No. 10/631,335 are claiming same subject matters and are both very similar. Applicants respectfully traverse based on (1) the distinctions provided below and (2) based on the provisional double patenting rejection being the only rejection remaining in the present application under MPEP §804.

The Examiner states that both claim 14 of the instant application and claims 1, 3 of copending Application No. 10/631,335 are claiming a backlight assembly comprising:

a lamp assembly including a plurality of lamps arranged in parallel, each of the lamps having a first electrode formed at a first end and a second electrode formed at a second end, the lamp assembly providing the lamps with a power voltage to turn on or turn off the lamps;

a receiving container that receives the lamp assembly, the receiving container having a plurality of openings facing each of the lamps;

a lamp driving device including

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- i) a substrate facing the receiving container,
- ii) a lamp driving module, mounted on the substrate, to provide the lamps with the power voltage,
- iii) a plurality of sensors, disposed on the substrate to face the lamps, to detect an operation state of the lamps to output a plurality of sensing signals,
- iv) a voltage cut-off module, disposed on the substrate, to compare the sensing signals with a predetermined reference signal, the voltage cut-off module providing the lamp driving module with a voltage cut-off signal to prevent the lamp driving module from providing the lamps with the power voltage when at least one of the sensing signals has an amplitude smaller than the reference signal.

(Emphasis added.)

More particularly, claims 1, 3 of copending Application No. 10/631,335 neither require, nor suggest, the receiving container having a plurality of openings facing each of the lamps. Further, claims 1, 3 of copending Application No. 10/631,335 neither require, nor suggest, a plurality of sensors, disposed on the substrate (e.g., same substrate that the lamp driving module of claim 14 is mounted to), as alleged by the Examiner.

In contrast, claim 1, 3 of copending Application No. 10/631,335 merely recite a backlight assembly comprising a receiving container having a bottom face and side faces and including a plurality of sensors disposed in the receiving container. Further claims 1, 3 require a lamp driving module included in the inverter and disposed outside the receiving container, while the plurality of sensors are disposed in the receiving container. Thus, the lamp driving module and plurality of sensors disposed with the same substrate of claim 14 conflict with the plurality of sensors disposed in the receiving container and the lamp driving module disposed outside the receiving container of claims 1, 3.

Therefore, it is respectfully submitted that claim 14 of the instant application claims different subject matter and is therefore patentably distinct from claims 1, 3 of copending Application No. 10/631,335.

Similar analysis is applicable to claims 1-13 and 15-22 of the instant application in comparison with claims 2 and 4-22 of copending Application No. 10/631,335.

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Accordingly, it is respectfully submitted that claims 1-22 of the instant application are patentably distinct over claims 1-22 of copending Application No. 10/631,335, as both sets of claims are different and claim different subject matter. Therefore, it is respectfully requested that the provisional double patenting rejection of claims 1-22 be withdrawn.

Furthermore, Applicants submit that pursuant to MPEP §804, “[t]he ‘provisional’ double patenting rejection should continue to be made by the examiner in each application as long as there are conflicting claims in more than one application unless that ‘provisional’ double patenting rejection is the only rejection remaining in >at least< one of the applications. ** . . . If ‘provisional’ [obviousness-type double patenting] (ODP) rejections in two applications are the only rejections remaining in those applications, the examiner should withdraw the ODP rejection in the earlier filed application thereby permitting that application to issue without need of a terminal disclaimer. A terminal disclaimer must be required in the later-filed application before the ODP rejection can be withdrawn and the application permitted to issue. If both applications are filed on the same day, the examiner should determine which application claims the base invention and which application claims the improvement (added limitations). The ODP rejection in the base application can be withdrawn without a terminal disclaimer, while the ODP rejection in the improvement application cannot be withdrawn without a terminal disclaimer.”

Accordingly, since the only rejection remaining in the earlier filed present application is a ‘provisional’ double patenting rejection, the instant application should be allowed to issue for at least this reason as well.

Conclusion

In view of the foregoing, it is respectfully submitted that the instant application is in condition for allowance. Accordingly, it is respectfully requested that this application be allowed and a Notice of Allowance issued. If the Examiner believes that a telephone conference with Applicants’ attorneys would be advantageous to the disposition of this case, the Examiner is cordially requested to telephone the undersigned.

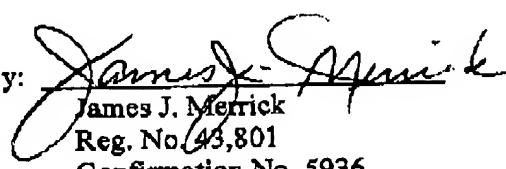
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In the event the Commissioner of Patents and Trademarks deems additional fees to be due in connection with this application, Applicants' attorney hereby authorizes that such fee be charged to Deposit Account No. 06-1130.

Respectfully submitted,

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